

The Honorable Nicholas G. Garaufis  
 United States District Court  
 Eastern District of New York  
 225 Cadman Plaza East  
 Brooklyn, NY 11201

RECEIVED

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in the Chambers of  
 Judge  
 Nicholas G. Garaufis

2/14/17

Re: United States v. Bryant Neal Vinas (Criminal Docket No. 08-0832 (NGG) (S-1)

Dear Judge Garaufis:

I am an independent reporter and author writing to request that the Sentencing Memorandum submitted by the Government on February 7, 2017 (the “Memorandum,” Docket No. 45) in the above referenced case be unsealed. I am making this request as part of my research on a book about the federal courts in New York City to be published by Alfred A. Knopf.

The Memorandum is of clear public interest. It is also a judicial document to which the public has a qualified right of access under the common law. *U.S. v. Erie Cnty.*, 763 F.3d 235, 238-9 (2d Cir. 2014) Our democracy relies, in part, on public access to documents which influence judicial decision-making, like this Memorandum. The Court indicated the import of this particular sentencing during the July 21, 2016 hearing: *“The issue of the defendant’s sentencing has long been of great concern to the court because of the nature of the crimes to which he pleaded guilty, the overall situation in the country, and the world with regard to international terrorism.”* The sentencing determination of the defendant, Bryant Neal Vinas, has particular relevance to residents of the Eastern District of New York and Southern District of New York; Mr. Vinas pleaded guilty to conspiracy to murder U.S. citizens in a proposed attack on the Long Island Railroad.

There is also a First Amendment right to access this document. Sentencing memorandums have historically been public in significant and minor cases in the Eastern District. These documents contribute greatly to the public’s understanding of a defendant and of the conduct of the Government in a criminal case. These memorandum also help frame the public discussion around sentencing.

Furthermore, the Memorandum concerns an individual convicted of a terrorism plot to kill Americans in the United States. This type of threat is driving executive actions on immigration, which have prompted intense public debate and historic judicial response. The Brooklyn courthouse for the Eastern District of New York was not only the site of a protest against the executive order purportedly drafted to confront terror threats, it was also the location where that

order was first stayed. The public interest in how national security threats drive policy could not be more clear: the Saturday evening of that hearing hundreds of citizens gathered at the courthouse doors to voice their rejection of this administration's approach. Mr. Vinas' case sits at the nexus of these issues; unsealing his Memorandum can only inform public discussion.

The Government has not provided a public justification for sealing this document, so it is not possible to argue how any interest asserted in support of sealing overcomes the clear public interest here. To the extent that any interests in sealing overcome the public interest I would ask that a more narrowly tailored alternative to complete secrecy surrounding this document be considered.

Federal courts in the last decade have often acted with an abundance of caution in granting the Government's requests to seal materials in cases which implicate national security concerns. Yet, the manner in which the current administration leverages these concerns without factual basis has altered that calculation. Deferring to the Government's representations of threats to national security now inherits the issues of accuracy and credibility that this administration continually raises when discussing terrorism. This, in turn, demands greater transparency to preserve the public's faith in our institutions.

I respectfully ask that you unseal this sentencing memorandum and any subsequent sentencing memorandum submitted by the Government or defense. I am grateful for your time and attention to this matter.

Sincerely,

Johnny Dwyer

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